

U.S. Department of Justice

United States Attorney Eastern District of New York

SLR:KAN/LM:CSK F#2003V01567/2003R00684

271 Cadman Plaza East Brooklyn, New York 11201

February 7, 2011

Via ECF and By Hand

The Honorable Edward R. Korman United States District Judge Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201

Re: <u>United States v. Zakay Sasson and Ezra Sasson</u> Criminal Action No. CR 03-489 (ERK)

Dear Judge Korman:

The United States respectfully submits this letter in opposition to the undocketed, post-sentencing letter, dated January 19, 2011, submitted by defense counsel in connection with the \$12 million forfeiture money judgment ("Defendants' letter"). Defendants' letter, without citing to any legal authority, states, "I intend to move to vacate the Order of Forfeiture and reduce it to a more correct amount." This appears to be premised upon defendants' representations that they lack funds to pay the forfeiture.

There is no legal basis for any such motion. Indeed, the Second Circuit has made clear that any such motion is without legal merit. <u>United States v. Awad</u>, 598 F.2d 76 (2d Cir. 2010) ("We join our sister courts of appeal in holding that [21 U.S.C.] § 853 permits imposition of a money judgment on a defendant who possesses no assets at the time of sentencing.") (citations therein omitted).

Furthermore, in this case, any attempt by defendants' to seek a reduction of the Order of Forfeiture that has already been agreed to and entered by the Court is particularly spurious. Over five years ago, on March 31, 2005 (following jury selection in the anticipated criminal trial), each of the individual defendants, Ezra Sasson and Zakay Sasson, pursuant to plea agreements, pled guilty to money laundering conspiracy, 18 U.S.C. § 1956(h), and as part of each of their plea agreements, agreed to forfeit \$12 million. On April 8, 2005, the Court entered an

Order of Forfeiture in the amount of \$12 million. Moreover, at the December 21, 2010 sentencings, as a condition of each of the defendants' three years of supervised release, the defendants were directed, inter alia, to comply with and make payments towards the Order of Forfeiture. 1

In short, under Second Circuit law and notwithstanding any representations in Defendants' letter, the United States respectfully submits that the Court should proceeds to enter the Judgment and Conviction against each of the defendants, including the \$12 million Order of Forfeiture already so ordered by the Court.

Respectfully submitted,

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cc: (via ECF)

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Defendants' were each sentenced to a term of imprisonment of "time served," however, it should be clear that neither ever been incarcerated in connection with their crimes.